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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,350	04/12/2006	Michael Beri	CMB0101PUSA	8073

22045 7590 05/26/2010
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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3657

MAIL DATE	DELIVERY MODE
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05/26/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,350	Applicant(s) BERI, MICHAEL	
	Examiner Melody M. Burch	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-26 and 41-88 is/are pending in the application.
- 4a) Of the above claim(s) 17-26, 41-64, 66-69, 84 and 85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65, 70-83 and 86-88 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 17-26 and 41-88 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/11/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Species II in the reply filed on 2/1/10 is acknowledged. The traversal is on the ground(s) that Examiner has searched the subclasses including the subject matter of all of the species. This is not found persuasive because Applicant has presented claims to more than one patentably distinct species of the invention and all of the claims are not generic.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 17-26, 41-64, 66-69, 84, and 85 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species or invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/1/10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 65, 70-73, 75, 78, 79-82, and 86 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2879866 to Newell.

Re: claims 65, 70-73, 75, 78, 79-82, and 86. Newell shows in figures 1, 2, and 6 a brake shoe assembly comprising: a brake shoe 23 having an outer radial surface, a

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plurality of receptacles 24 passing through the outer radial surface, and a plurality of bore holes 26 in the outer radial surface for preassembled fasteners 17; and a brake plate 1, 21 having a cylindrical backing plate 1 and a frictional brake lining 21, wherein the cylindrical backing plate includes tangs 2 that are partially severed from the backing plate to mate with respective receptacles for resisting movement of the brake plate relative to the outer radial surface of the brake shoe without the tangs passing completely through the brake shoe, and a plurality of preassembled fasteners 17 spaced from the tangs (spaced from the remaining tangs, as broadly recited) and extending away from the brake lining and toward the brake shoe to facilitate alignment of the tangs with the receptacles, and wherein the frictional brake lining is molded to the backing plate to form a continuous molded layer that covers each of the preassembled fasteners, the brake lining being free of holes extending completely through the continuous molded layer; wherein the tangs and the receptacles supplement the preassembled fasteners in securing the brake plate to the brake shoe and particularly resist shear forces between the brake plate and brake shoe.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 74 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell.

Re: claims 74 and 83. With regards to the tangs and receptacles being a particular shape, for example rectangular, Examiner notes that in *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) the court held that the configuration of a claimed object was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration was significant.

7. Claims 76 and 87 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Newell.

Re: claims 76 and 87. With regards to the punching limitation Examiner notes that MPEP 2113 states “[e]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production.

8. Claims 77 and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell in view of US Patent 3996717 to Sallenave.

Newell describes the invention substantially as set forth above including the limitation of a plurality of fasteners, but is silent with regards to the plurality of fasteners being threaded clinch stud bolts.

Sallenave teaches in figure 1 the use of a plurality of fasteners used in connecting components being in the form of threaded clinch stud bolts 4.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the plurality of fasteners of Newell to have

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included threaded clinch stud bolts, as taught by Sallenave, in order to provide a functionally equivalent means of securely connecting two components.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new interpretation of the Newell reference in light of the new claims.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb
May 24, 2010

/Melody M. Burch/
Primary Examiner, Art Unit 3657